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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,557	08/24/2007	Charles Edward Bright	02838	8935

987 7590 11/09/2009

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EXAMINER

DANG, PHONG SON H

ART UNIT	PAPER NUMBER
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3773

NOTIFICATION DATE	DELIVERY MODE
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11/09/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/575,557	Applicant(s) BRIGHT, CHARLES EDWARD	
	Examiner SON DANG	Art Unit 3773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/12/2006, 07/12/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 11, 15-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,486,185 to Freitas et al. (Freitas).

In Regards to claims 1-6, 11, 15-18 and 20:

Freitas teaches:

An applicator or other surgical applicators, said applicator comprising a barrel (28, Fig. 1) portion and a handle portion (14, Fig. 1) attached thereto, said barrel portion comprising means (22, 24, Fig. 1) for holding a surgical clip and said handle comprising trigger means (140, Fig. 4) said trigger means being operative to effect closure of a surgical clip held within said barrel by movement of said trigger from a first position to a second position, at which second position said applicator is operative to effect closure of said clip, and in which said trigger is provided with a visual indicator means (where 164 is position, Fig. 4) indicative of an intermediate trigger position at which intermediate position said surgical clip held in said barrel is closed to a half closed position (pulling the trigger when the circular locking slot passed inside the handle, then it is a half way closed of the clip). Which said visual indication indicator means comprises an indentation

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(opening, Fig. 4) on said trigger means. Which said visual indication indicator means comprises a reduced (opening, Fig. 4) section of said trigger means. Which said visual indication indicator means comprises groove (opening, Fig. 4) means in said trigger means. Which said groove means may comprise means for engaging (162, Fig. 4) with a removable stop means (170, Fig. 4) said removable stop means being co-operative with a portion of said handle portion to prevent movement of said trigger means (140, Fig. 4) past a predetermined position. Groove means is present on both sides of said trigger means. The handle portion (Fig. 4) includes a recess (where the trigger goes in when squeezed, Fig. 4) the trigger means being pivotally mounted (with 142, Fig. 4) within said handle portion to be moveable within said recess when said trigger means is operated and in which the trigger means is dimensioned to have minimal clearance between itself and the recess edges over substantially the whole pivotal movement of the trigger means (Figs. 1-4).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freitas in view of US Patent No. 5,137,198 to Nobis et al. (Nobis).

In Regards to claims 7-9:

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Freitas teaches:

An applicator as claimed in claim 6 (see rejection of claim 6 above). The U shaped member comprises spring steel (Col. 8, lines 30-50).

Freitas fails to teaches:

Stop means comprises a U shaped member which is designed in a first locking position to sit within said groove means and to protrude from said groove means to form said stop means. U shaped member comprises means for gripping by a surgeon to effect removal of said U shaped member from said trigger means enabling movement of said trigger means past said predetermined position.

Nobis teaches:

Stop means comprises a U shaped member (5, Fig. 1) which is designed in a first locking position to sit within said groove means (where 94 is, Fig. 4) and to protrude from said groove means to form said stop means. U shaped member (5, Fig. 1) comprises means for gripping by a surgeon (where 134, Fig. 1) to effect removal of said U shaped member from said trigger means enabling movement of said trigger means past said predetermined position (the U shaped member is capable of being removed from the trigger or handle for element 3 to be fully closed up with element 4, Fig. 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the stop means of Nobis into Freitas in order to enhance the stability of the stop means with the trigger and the handle of the medical device.

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5. Claims 10, 12-14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freitas in view of US Patent No. 5,902,320 to Matsutani et al.

(Matsutani)

In Regards to claims 10, 12-14 and 19:

Freitas teaches:

An applicator as claimed in claim 1 (see rejection of claim 1 above). A feedback pressure as a clip is being moved from an open to a half closed position this feedback pressure providing a tactile sense to the surgeon which when combined with the visual indication provides additional information on the position of the clip (when squeezing the trigger, the user would feel the clip being closing on the object being closed).

Freitas fails to teach:

The trigger means comprises two or more colours arranged or changes in surface texture to identify a specific position of the trigger means.

Matsutani teaches:

Using color code to identify the position of the medical device.

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ color code into Freitas in order to enhance the accuracy of the surgical procedures. Even though Matsutani is silent on using the texture for identify the positions of medical devices but it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the handle to have different color codes and different surface textures in order to feel and differentiate the positions of the of the

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medical devices in order for better accuracy of applying or delivering medical devices during a procedure.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON DANG whose telephone number is (571)270-5809. The examiner can normally be reached on Monday-Friday 7:30 AM - 5:00 PM EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SD

/(Jackie) Tan-Uyen T. Ho/
Supervisory Patent Examiner, Art Unit 3773